

In the Matter of Merchant Mariner's Document No. Z-512940
Issued to: JOSEPH WILKERSON

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

695

JOSEPH WILKERSON

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

On 20 May, 1953, an Examiner of the United States Coast Guard at Mobile, Alabama, suspended Merchant Mariner's Document No. Z-512940 issued to Joseph Wilkerson upon finding him guilty of misconduct based upon one specification alleging in substance that while serving as Chief Cook on board the American SS TUCSON VICTORY under authority of the document above described, on or about 19 May, 1953, while said vessel was in the port of Theodore, Alabama, he assaulted and battered by beating Tan Ah Joon, Chief Steward.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although advised of his right to be represented by an attorney of his own selection, Appellant voluntarily elected to waive that right and act as his own counsel. The Examiner entered a plea of "not guilty" to the charge and specification after Appellant declined to enter a plea in his own behalf.

Thereupon, the Investigating Officer and Appellant made opening statements and the Investigating Officer introduced in evidence the testimony of the Chief Steward and Chief Engineer of the TUCSON VICTORY, and a Marine Superintendent for MSTs who were present at the time of the incident.

In defense, Appellant offered in evidence the testimony of a crewman working in the galley, but who did not witness the commencement of the altercation; Appellant testified in his own behalf.

At the conclusion of the hearing, having heard the argument of the Investigating Officer and given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by proof of the specification and entered the order suspending Appellant's Merchant Mariner's Document No. Z-512940 and all other licenses, certificates of service and documents issued to this Appellant for a period of six months.

From that order, this appeal has been taken, and it is urged:

1. Appellant has gone to sea steadily since 1945, without any previous trouble;
2. This situation was created because the Chief Steward came aboard drunk, and "balling out" Appellant only added to the latter's other troubles with the stove;
3. Appellant was doing everything possible to serve breakfast, but when the stove started smoking the fire chief of the ammunitions depot ordered that it be shut off;
4. Appellant regrets the incident; knows his conduct was not proper, but he is married, 40 years old, has three children and needs this employment to support his family.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On 19 May, 1953, Appellant was serving as Chief Cook on board the American SS TUCSON VICTORY and acting under authority of his Merchant Mariner's Document No. Z-512940 while said vessel was in port at Theodore, Alabama.

Because the stove was not operating properly, Appellant had been ordered to stop using it; and had been reprimanded by the Master for failure to have breakfast ready on time.

The Chief Steward returned to the vessel from ashore, and found conditions were unsatisfactory in the galley, so he also reprimanded Appellant, who lost his temper and severely wounded the Chief Steward by a series of physical attacks that left the Chief Steward in a dazed condition.

Appellant has a clear record as a merchant seaman since he commenced going to sea in 1945.

OPINION

There was no justification or provocation for Appellant's attack on his superior officer. The evidence does not reveal the latter was drunk or other than naturally perturbed because his department was responsible for disturbance of the vessel's routine.

While it is regrettable that innocent persons may suffer because of Appellant's misconduct, I cannot ignore the disastrous results that will flow if every crew member undertakes to mollify his own problems by assaulting the officers appointed to direct his performance of duty - and who may, on occasion, criticize his actions.

ORDER

The Order of the Examiner dated at Mobile, Alabama, on 20 May, 1953, is AFFIRMED.

M. C. Richmond
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D. C., this 5th day of August, 1953.